The Original Nakba: The Division of "TransJordan"

By **Paul Gherkin** - 5 Elul 5777 – August 27, 2017

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This year marks 100 years since the Balfour Declaration on November 2, 1917 which endorsed "*the establishment in Palestine of a national home for the Jewish People.*" The declaration became the basis for the League of Nations (precursor to the United Nations) to endorse the Palestine Mandate which clearly articulated the history and rights of Jews to a reconstituted national homeland in the area now commonly thought of as Gaza, Israel, the West Bank and Jordan.

Article 25 of the Mandate allowed the administrator (Britain) to change the contours of the reestablished Jewish homeland.

"In the territories lying between the Jordan and the eastern boundary of Palestine as ultimately determined, the Mandatory shall be entitled, with the consent of the Council of the League of Nations, to postpone or withhold application of such provisions of this mandate as he may consider inapplicable to the existing local conditions, and to make such provision for the administration of the territories as he may consider suitable to those conditions, provided that no action shall be taken which is inconsistent with the provisions of Articles 15, 16 and 18."

On September 23, 1922, the League of Nations adopted the suggestion of the British to divide the territory in two, in a document called the "Transjordan Memorandum." That memorandum stripped away any mention of Jewish history in the land, facilitating the emigration of Jews to Palestine or the creation of a Jewish homeland in the area east of the Jordan River.

The memorandum also facilitated a complete abrogation of key components of Article 25 of the Palestine Mandate that allowed such separation: that "*no action shall be taken which is inconsistent with the provisions of Articles 15, 16 and 18."* Those provisions specifically enumerated non-discrimination clauses that were to be kept in place in the new TransJordan:

"Article 15:

The Mandatory shall see that complete freedom of conscience and the ***free exercise of all forms of worship****, subject only to the maintenance of public order and morals, are ensured to all.* ***No discrimination of any kind*** *shall be made between the inhabitants of Palestine* ***on the ground of race, religion or language. No person shall be excluded from Palestine on the sole ground of his religious belief.***

The right of each community to maintain its own schools for the education of its own members in its own language, while conforming to such educational requirements of a general nature as the Administration may impose, shall not be denied or impaired.

Article 16:

The Mandatory shall be responsible for exercising such supervision over religious or eleemosynary bodies of all faiths in Palestine as may be required for the maintenance of public order and good government. Subject to such supervision, ***no measures shall be taken in Palestine*** *to obstruct or interfere with the enterprise of such bodies or* ***to discriminate against any representative or member of them on the ground of his religion or nationality****.*

Article 18:

The Mandatory shall see that there is no discrimination in Palestine against the nationals of any State Member of the League of Nations (including companies incorporated under its laws) as compared with those of the Mandatory or of any

foreign State in matters concerning taxation, commerce or navigation, the exercise of industries or professions, or in the treatment of merchant vessels or civil aircraft. Similarly, there shall be no discrimination in Palestine against goods originating in or destined for any of the said States, and there shall be freedom of transit under equitable conditions across the mandated area.

Subject as aforesaid and to the other provisions of this mandate, the Administration of Palestine may, on the advice of the Mandatory, impose such taxes and customs duties as it may consider necessary, and take such steps as it may think best to promote the development of the natural resources of the country and to safeguard the interests of the population. It may also, on the advice of the Mandatory, conclude a special customs agreement with any State the territory of which in 1914 was wholly included in Asiatic Turkey or Arabia."

International law was clear that any division of the territory would ensure that no discrimination of any kind be allowed on the basis of religion.

But that is exactly what Transjordan/Jordan became: an anti-Semitic country established by the United Nations which prohibits Jews in a variety of areas.

No Citizenship

Consider Jordan's Nationality Law of 1954:

"Article 3:

The following shall be deemed to be Jordanian nationals:

*Any person who, **not being Jewish**, possessed Palestinian nationality before 15 May 1948 and was a regular resident in the Hashemite Kingdom of Jordan between 20 December 1949 and 16 February 1954;"*

Can you think of anything more explicitly anti-Semitic than a law that specifically separates Jews from others and bans them from becoming citizens?

No Land Purchases

Jordan prohibited Jews from buying any land in the area that had been part of the Palestine Mandate in an edict, Law No. (40) of 1953 Concerning the Leasing and Selling of Immovable Properties from Foreigners, as amended by Law No. (12) of 1960; and Law No. (2) of 1962.

Jordan has continued along this path even post its 1994 peace treaty with Israel.

In March 2016, the Jordanian government singled out Israelis as being banned from buying or renting property around the city of Petra. No other country is subject to such provision.

The League of Nations considered at the outset of its endorsement of a Jewish national home in 1920 and 1922 that perhaps the contours of such homeland should exclude the land east of the Jordan River. But international law has – and continues to fail – in two major respects:

- In JORDAN: The provision (Article 25) to cut the eastern part of the Mandate (and ONLY the eastern part) from the Jewish homeland specifically did not allow the discrimination against Jews from buying land or obtaining citizenship there;
- In the WEST BANK: All of the land west of the Jordan River was allocated for a Jewish homeland, and obviously with full legal authorization for Jews to purchase homes and obtain citizenship, despite calls by the current Palestinian Authority leadership to have a Jew-free country

The division of the Palestine Mandate in September 1922 to create Jordan was a disgraceful tragedy which denied Jewish history and rights east of the Jordan River. Despite this, people have attempted to expand upon Article 25 almost a century later to divide the land WEST of the Jordan River in an identical course of anti-Semitic charges that the West Bank should not have a single Jew.

The Palestinian Arabs coined the term "Nakba" (catastrophe) for the founding of the Jewish State on just a part of the Palestine Mandate on May 15, 1948. However, the original Nakba happened 26 years earlier, when the British gutted the essence of international law set out in the Palestine Mandate: for all of the land west of the Jordan River to be the Jewish homeland, and the land east of the river to have full legal rights for Jewish worship, land ownership and citizenship.

Remarkably, the Jewish Nakba of September 23, 1922 is seeking a second coming.

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